

### Remarks

Claims 20-44 are pending in the application. Claim 44 is newly added.

#### Claim rejections

##### Section 102

Claim 20-24, 26, 27 and 32-35 were rejected under 35 USC 102(b) as being anticipated by Dews et al. (US 3,801,374) ("Dews"). The Applicant respectfully traverses. Dews does not support the rejection for at least the reason that Dews does not disclose a separator which, on a first surface thereof, holds the joint body, and on a second surface thereof opposite to the first surface, holds an adjacent joint body produced by interposing an electrolyte member between a pair of electrodes, as recited in independent claims 20 and 35. Support for this feature may be found in the present application at, for example, the paragraph bridging pages 17 and 18. Instead, Dews only discloses a plate 18 which on one surface thereof abuts an electrode, but on an opposite surface thereof abuts a plate 20. The claims are therefore allowable over Dews, and withdrawal of the rejection is respectfully requested.

#### Double patenting

Claims 20-28 and 30-43 were provisionally rejected on the ground of non-statutory double patenting over claims 11, 12, 14, 20, 22, 24, 26 and 28-35 of co-pending 09/665,899. A terminal disclaimer is submitted herewith to overcome this rejection. Withdrawal of the rejection is respectfully requested.

#### Objections to the claims

Claims 25, 28-31 and 36-43 were objected to. Withdrawal of the objection is respectfully requested in view of the allowability of the claims as discussed above.

#### New claim

New claim 44 is allowable over the prior art. New claim 44 is based on FIG. 11 and the specification at, e.g., page 33, 3<sup>rd</sup> paragraph and paragraph bridging pages 33 and 34. As illustrated and described, in a separator according to claim 44 a width (W3

(or W2)) of each of the regions is narrower than the width (W2 (or W1)) of its immediately upstream region. Plural turning passages between an end of a rib portion and an opposing peripheral wall of the separator are formed, and a width (S2) of each of the turning passages is narrower than the width (S1) of its upstream turning passage. By contrast, FIG. 2 of Dews shown a structure in which the width of a turning passage is the same as the width of its upstream turning passage. In such a structure, water produced by an electrode reaction is not likely to flow smoothly at the turning point. Further, the produced water is less likely to flow smoothly at the turning point in the downstream portion than at the turning point in the upstream portion of the passage, because a large amount of the produced water flows from the upstream portion of the passage, because a large amount of the produced water flows from the upstream portion to the downstream portion, and a part of the gas is consumed in the upstream portion of the passage. However, in a structure as in claim 44, the drainage of the produced water and the diffusibility of gas, in particular, at the downstream turning passage, is improved. In the structure of Dews, by contrast, the flow of the generated water is disrupted, thereby making it harder for air to flow at the turning passages.

### Conclusion

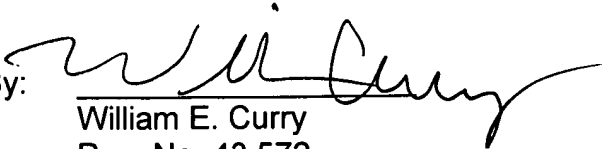
In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

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